

§ 401.90

Commission decision to the extent directed to do so by the Chairman.

(c) The determination of the Commission will be in writing and shall be filed together with any transcript of the hearing, report of the Hearing Officer, objections thereto, and all plans, maps, exhibits and other papers, records or documents relating to the hearing. All such records, papers and documents may be examined by any person at the office of the Commission, and shall not be removed therefrom except temporarily upon the written order of the Secretary after the filing of a receipt therefor in form prescribed by the Secretary. Copies of any such records and papers may be made in the office of the Commission by any person, subject to such reasonable safeguards for the protection of the records as the Executive Director may require.

§ 401.90 Appeals from final Commission action; Time for appeals.

Any party participating in a hearing conducted pursuant to the provisions of this subpart may appeal any final Commission action. To be timely, such an appeal must be filed with an appropriate federal court, as provided in Article 15.1(p) of the Commission's Compact, within forty-five (45) days of final Commission action.

Subpart G—Penalties and Settlements in Lieu of Penalties

SOURCE: 52 FR 37602, Oct. 8, 1987, unless otherwise noted.

§ 401.91 Scope of subpart.

This subpart shall be applicable where the Commission shall have information indicating that a person has violated or attempted to violate any provision of the Commission's Compact or any of its rules, regulations or orders (hereafter referred to as possible violator). For the purposes of this subpart, person shall include person, partnership, corporation, business association, governmental agency or authority.

§ 401.92 Notice to possible violators.

Upon direction of the Commission the Executive Director shall, and in all other instances, the Executive Director

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may require a possible violator to show cause before the Commission why a penalty should not be assessed in accordance with the provisions of these rules and section 14.17 of the Compact. The notice to the possible violator shall:

(a) Set forth the date on which the possible violator shall respond; and

(b) Set forth any information to be submitted or produced by the possible violator.

§ 401.93 The record for decision-making.

(a) *Written submission.* In addition to the information required by the Commission, any possible violator shall be entitled to submit in writing any other information that it desires to make available to the Commission before it shall act. The Executive Director may require documents to be certified or otherwise authenticated and statements to be verified. The Commission may also receive written submissions from any other persons as to whether a violation has occurred and the adverse consequences resulting from a violation of the Commission's Compact or its rules, regulations and orders.

(b) *Presentation to the Commission.* At the date set in the Notice, the possible violator shall have the opportunity to supplement its written presentation before the Commission by any oral statement it wishes to present and shall be prepared to respond to any questions from the Commission or its staff or to the statements submitted by persons affected by the possible violation.

§ 401.94 Adjudicatory hearings.

(a) An adjudicatory hearing, which may be in lieu of or in addition to proceedings pursuant to § 401.93 at which testimony may be presented and documents received shall not be scheduled unless:

(1) The Executive Director determines that a hearing is required to have an adequate record for the Commission; or

(2) The Commission directs that such a hearing be held.

(b) If an adjudicatory hearing is scheduled, the possible violator shall be given at least 14 days written notice